

REMARKS

As a preliminary matter, claims 6 and 8 are amended herein to substitute some full phrases for their corresponding abbreviations. In addition, claim 6 is amended without prejudice to include the features of claim 7. Concomitantly, claim 7 is cancelled without prejudice herein. It is believed that the amendments to claims 6 and 8 are purely formal, that they are unrelated to the patentability of the present invention, and that they do not change the scope of the claims. Because all of the amendments presented herein have a basis in the specification and claims as originally filed, they introduce no new matter into the application.

The Official Action issued on July 20, 2007 has repeated and made final the rejection of claims 6, 7, 8, 10 and 11 under 35 U.S.C. 103(a) as obvious over Klock in view of U.S. Patent No. 3,153,009, issued to Rombach et al. (hereinafter "Rombach"). In addition, the rejection of claim 9 under 35 U.S.C. 103(a) as unpatentable over Klock in view of Rombach and further in view of U.S. Patent 6,472,054, issued to Aurenty et al. (hereinafter "Aurenty"), has been repeated and made final. Finally, the rejection of claim 12 under 35 U.S.C. 103(a) as unpatentable over Klock in view of Rombach further in view of U.S. Patent 5,559,175 issued to Kroggel et al. (hereinafter "Kroggel") has also been repeated and made final.

These are the sole substantive reasons set forth in the Official Action why the present claims should not be allowed. The facts and reasoning set forth earlier in the prosecution are neither withdrawn nor abandoned. In addition, Applicants respectfully traverse these rejections for the further reasons set forth below.

First, with respect to the rejection citing Klock in view of Rombach, Applicants note that it is irrelevant whether any cited reference describes a range of surfactant concentrations that overlaps with the claimed range (Office Action in paragraph 8), or whether one of skill in the art could optimize a claimed feature through routine experimentation (*id.*). These arguments are inapposite with respect to the present rejection, because it is well established that references simply cannot be combined, when the references themselves teach away from their combination. See, e.g., M.P.E.P. at § 2145(X)(D)(2), *citing In re Grasselli*, 713 F.2d 731, 743, 218 USPQ

769, 779 (Fed. Cir. 1983), in which “[t]he claimed catalyst which contained both iron and an alkali metal was not suggested by the combination of a reference which taught the interchangeability of antimony and alkali metal with the same beneficial result, combined with a reference expressly excluding antimony from, and adding iron to, a catalyst.” *Emphasis supplied.* In *Grasselli*, as in the present application, the teachings of the references were not merely mutually exclusive, but in fact truly antithetical to each other.

To reiterate briefly, the surfactants described by Klock are present in an amount of greater than 0.3 wt% or greater than 0.4 wt% based upon the dry weight of PVA (page 2 at lines 46 to 54). These high levels of surfactant are described as necessary to obtain a high level of meso rings, and therefore greater rigidity, in the PVB polymer (page 3 at lines 3 to 10).

Rombach, in contrast, teaches that using a lower amount of surfactant will reduce or eliminate haze in polyvinyl acetals. See column 1 at lines 32 to 36 and at line 63 continuing to column 2 at line 3. For these reasons, Rombach permits only 0.04 to 0.2 wt% of surfactant, based on the weight of the polyvinyl alcohol. Column 2 at lines 16 to 21. Significantly, this range is mutually exclusive from the range of “greater than 0.3 wt%” that is described in Klock. Also in contrast to Klock, Rombach teaches that the use of higher levels of surfactants will affect other properties of the resin. The clear implication is that these effects will be adverse. Column 2 at lines 21 to 22.

Plainly, then, Klock and Rombach teach away from each other. Accordingly, it is simply improper to reject claims 6 (as amended), 8, 10 and 11 citing Klock in view of Rombach.

Likewise, it is well established that two references may not be combined “[i]f [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, [because] then there is no suggestion or motivation to make the proposed modification.” M.P.E.P. at § 2143.01(V). Adding a higher level of surfactants to the composition described in Rombach will increase the haze of the product (column 1 at lines 32 to 36), thus rendering it unfit for its intended

use, specifically, "as a safety glass interlayer, which require[s] excellent optical clarity." Column 1 at lines 66 to 72. Decreasing the level of surfactants in Klock will result in a lower level of meso rings, and therefore greater flexibility in the PVB polymer. Page 3 at lines 3 to 10. Greater flexibility renders sheets of the PVB polymer unfit for their intended use in automated systems for gripping and cutting laminated glazings, such as windshields. Page 4 at lines 2 to 5. Clearly, then, combining the Klock and Rombach references renders each of the prior art compositions unfit for its intended purpose.

In light of the foregoing reasons why it is improper to combine the Klock and Rombach references, Applicants respectfully request that the rejection of claims 6 (as amended), 8, 10 and 11 under 35 U.S.C. § 103 citing Klock in view of Rombach be withdrawn upon reconsideration.

The rejections of claims 9 and 12 also rely on the impermissible combination of Klock and Rombach. Consequently, Applicants respectfully submit that these rejections are also improper, for at least the reasons set forth above with respect to the rejection of newly amended claim 6. Accordingly, it is further respectfully requested that these rejections also be withdrawn upon reconsideration.

Finally, the rejection of claim 7 is rendered moot by its cancellation without prejudice herein.

Conclusion

A Petition for an Extension of Time for three months and the required fee for the extension are filed concurrently herewith. Should any further fee be required in connection with the present response, the Examiner is authorized to charge such fee, or render any credit, to Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company).

In view of the foregoing, it is believed that pending claims 6 and 8 through 12 are in condition for immediate allowance, and such action is earnestly solicited. Should the Examiner believe that an interview or other action in Applicants' behalf would expedite prosecution of the application, the Examiner is urged to contact Applicants' undersigned attorney by telephone at (302) 892-1004.

Respectfully submitted,



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